

Mr. Croftons Case

SOBERLY CONSIDERED

plainly Stated, and humbly submitted to the
consideration of

JUST and PRUDENT Men,

MADE PUBLIQUE
To Silence Clamor, Correct Mistake, and
Acquit him from the Charge of High Treason.

Urged by *Tho. Tomkins* Fellow of *All Souls
Oxon.* and others in their Frivolous, Scurrillous and
Invective Pamphlets.

*Eccles. 8. 14. There is a vanity done upon the earth; that there
be just men, unto whom it happeneth after the work of the
wicked.*

*Isaiah 59. 15, 16. Truth faileth; and he that departeth from evil
maketh himself a prey; and the Lord saw it, and is displeased
him that there was NO JUDGEMENT, and he
saw that there was NO MAN, and wondered that there was
NO INTERCESSOR.*

L O N D O N.
Printed for the Authours, 1661.

Mr. C. J. Jones

1661

M678



TO THE
 Right Honourable
 EDWARD
 EARLE
 OF
 CLARENDON,
 Lord High Chancellour of ENGLAND.

May it please your Honour,

Although the Confinement of Mr. Crofton, seemeth to pass with the least regard, we cannot but with grief observe, it hath not the least reflection on the Justice and Honour of his Majesties Government; The person being known to have asserted and adhered unto his Majesties Just Interest in the worst of times, under, and against the late Ufurpers, and their base Compliants and Confederates, unto the loss of his Estate and Liberty, and Hazard of his Life; nor is any Defection in his Loyalty visible to men, who can see no cause for his present Bonds, save the Casuistical debate of the Oath, the Providence of God had brought on this Kingdom, and that before it was interdicted by any Law.

W^o

E:G: Friskill 2. 21. '33 57. from G. H. Lamb's Coll. 189 # 103 (212)

The Epistle.

We cannot but be afflicted to consider the insultation of his Majesties known enemies, in the sufferings of this man, his Majesties known Faithful and Loyal Subject, who observing him to suffer with them, and more then the most of them, according to their Blasphemous Argumentation from providence, conclude (not without reproach to his Majesty) that his present bonds, is Gods punishment for his active endeavours for his Majesties most happy restoration, reputing his zeal therein, to have been his most grievous sin, which notwithstanding we are well assured, his heart doth abide most upright and sincere towards his Majesty.

We have in silence long expected some Ebedmelech, in the Kings Court, to procure his discharge from his Dungeon: and conceived some by the duty of their place bound, and better capacitated then are poor we, would have appeared by way of Apologie for his innocency, but have been therein failed; least therefore God should say, and wonder there was no Intercessor, we have presumed to break silence, and make publique our apprehensions of his Cause and Case, submitting the same to the censure of Just and Prudent men.

It hath (Right Honourable) been suggested to us, nor have we been void of fear, that this Apologie for our Friend might prejudice him, and endanger us, though we confess we can conceive no cause thereof, save that irrationalitie and injustice which judgeth Truth to be treason, which we dare not but think is a stranger at, and kept at a distance from our Kings Court; we profess our deliberate thoughts conclude Magna Charta, and the Petition of Right shall be as soon violated, and the Prisoners humble demand of an Habeas Corpus be determined a crime, as this plain naked representation, be reflected to his damage, or charged on us as an offence. We ob-

serve

The Epistle.

serve the Quakers and others, do with much boldness publish their Cases without Control, and we cannot suppose this course more offensive in Loyal, and sober Presbyterians, nor can reason condemn us for vindicating him, by that way whereby Tomkins and others have defamed him.

We are not much acquainted with the Laws, nor do we understand how far some late Laws may extend; but we profess our selves men of Conscience, and fly to Your Honour as Judge of Equity: We have indeed considered our Friends Case, as it hath been represented by vulgar Clamor, and Scurrillous Pamphlets, because we can know it by no other means, no Accuser, or Accusation having appeared against Him; which if there ever do, we shall leave Him to Answer, and do not doubt but He will fully acquit himself; Our Consideration is such; as we fear not to Tender to Your most serious Scrutinie, with an assurance of a most Wise and Just Decree upon it, so far as Your Honours Power doth extend.

We want not matter of Clamorous complaint, concerning the hard Usage of our Friend in this close Imprisonment; Where by perdidit patriam, domum, familiam, imo & ecclesiam, cultumque Dei publicum; A manifest Bondage: the Illegal disposing of his Church, immediately on his Confinement, to the depriving of him of all possible means of Subsistence to himself, and numerous family, and that without allowing him the maintenance, he ought by Law to enjoy whilst His Majesties Prisoner: And the many tedious chargeable, and (what worse) bootless applications by humble Addresses, and many Submiss Petitions never Answered: But these we see, being unwilling to reflect on Persons or Personal and convinced our Friend suffereth by mistake, apprehension of what he is, and what he hath written;

The Epistle.

written; the which being hereby made manifest, we most humbly pray it may, and cannot doubt but it will obtain Your Honours most Favourable Mediation to the Kings most Excellent Majesty, for the discharge of his long Imprisonment.

We will not further trouble Your Honour, save to beg Your Pardon for this over bold Address, constrained by compassion to our Friend, and Conscience towards our Righteous God.

May it please Your Honour,

We are Your Honours

most Humble

Servants,

Hugh Griffith.

Henry Hall.

James Green.

Thomas Eaton.



Mr. Croftons Case

*Soberly Considered, plainly Stated, and
bumbly propounded to the Consideration
of Just and prudent men.*

MR. Zechariah Crofton, Minister of Botolphs Algate, London, now is, and ever since the twenty third day of March 1660. hath been a close Prisoner in the Tower of London, not permitted pen, ink and paper, nor any other way or means whereby to plead his own cause, or vindicate himself from the calumnies cast upon him, by the tongues and pens of violent and unreasonable men; we therefore conceiving our selves as fellow subjects interested in his restraint; And as men and Christians bound to Plead the cause of the oppressed, and to do as we would be done unto; and observing that trembling, stupendious and God-amazing silence, which hath seized upon such (who in point of duty and ability) are more capacitated, and charged to plead the cause of the poor, then are we our selves, *Isaiab, 59.* 16. have presumed to enquire into, and represent to others his case and condition, in reference to the cause of his present sufferings, which we are convinced are continued upon him through misapprehension, he being reported and concluded to be, what indeed he is not.

Although every tongue and pen can now call him by no other name but *Traitor*, such as have known the man, his principles and practises, yea and sufferings; and observed from what persons, and for what cause he received the

same, cannot but know he was Conſcientiouſly loyal, and conſtantly faithful to the Kings Maſteſty and his Intereſt in theſe Kingdoms; he having manifeſted the ſame (beyond all poſſibility of denial by any) by his retaining his Loyalty and adhering to the Exil'd King, as his only liedge Lord, in the very worſt of times, under our late Uſurpers; in his place and to his power oppoſing them, diſowning their Authority, denying to ſubſcribe the *Ingagement of fidelity to them*, and declaring againſt it as unſul; *diſſenting from*, and many times expoſtulating with his complying Brethren, and ever reſuſing to concur in any Addreſſe or Application to them; by his *Sequeſtrations*, and many ſufferings he received from them, for no other cauſe, then his Loyalty unto his Maſteſty (then in a low Eſtate:) by his *Sermons* preached at Namptwich, at Weſt-cheſter, at Caberine Coleman and Peters Church in Cornhill London, rebuking the barbarous murder of his late Rebellion and defection from his now Maſteſty, and perſwading a penitential return of Allegiance to him our lawful Sovereign; the which he enforced with many Pathetical and pregnant perſwaſive Admonitions, publickly Printed; and the ſame is made the more legible by the joy of ſuch by whom he formerly ſuffered, and with whom he now ſuffereth, who now tauntingly inſult over his preſent ſufferings, & upbraid him with his paſt adherency to his Maſteſty, ſaying, *Nothing but a King would ſerve his turn, we hope he hath King enough now; we well knew they who were ſo zealous for the King, would fare no better, then thoſe that were againſt him.* Theſe and the like Evidences of his ſincere Loyalty are ſo notorious, that we ſhould labour without cauſe and to no purpoſe, to ſpecifie particular proofs, his very enemies, not being able to deny them; That this man retained the ſame affection to his Maſteſty after his happy Reſtoration, we need not inquire into his domeſtick Expreſſions of Joy, and daily praifes to God, as evidences thereof; the ſame having been amply teſtified by his Publick Miniſtry, and the doctrine of Obedience and ſubjection to the King which he Preached at St. Antholines Church London, from 1 Per. 2. 13. 14. 15. 16. and the doctrine of Thankſgiving to God for ſo great a Mercy Preached on May 10. and June 28. 1660. at Buttolphs Algate immediately before; and after his Maſteſties

1649:

1649.

Vid. Proſ-
pring pro-
fanels, and
his letter to
a Member of
the Rump-
Parliament.

jesties happy return, from that Text, 2 Sam. 22. 48, 49, 50, 51. And by the Doctrine of *humiliation for the horrid Regicide the barbarous murther of his late Majesty*, which he preached from 2 Sam. 1. 11, 12, 13, 14, 15, 16. On the 30th of Jan. the same year, all which (were they not too tedious for a discourse of this Nature) we had thought to have inserted in these papers six out of those book notes which we took from his own mouth, when he preached the same; Thus much we will be bold to say, that the expressions of his Loyalty in those Sermons, were such as might vie with those who enjoy the most of his Majesties favour, and administer to all that know the man, matter of amazement and admiration, that he is resolved into such sufferings under pretence of *Treason and disloyalty*, which must needs be the result of mistake, or unkindness.

We cannot but admire with what honesty or modesty, men do confound Mr. Croston with those (because professedly the same with him in Ecclesiasticks,) who *advised or irritated open Rebellion against his late or present Majesty*, (which his Soul ever abhorred,) or who *did basely comply under our late sinful, shameful revolutions*: with what face can men reflect the odium of these things, upon the person who acquitted his Conscience and Credit, by a constant and publique disavowing the one and the other, and in his place declaring the sinfulness of both, and whereof his writings do very plainly shew his dislike and detestation, making it his business to vindicate the *Solemn League and Covenant* from the least causality of so sad effects, affirming these to have been the perjurious violation of that. We with the Serious Reader, willing to be satisfied in this particular, to review his *Analepsis*, pa. 7, 8, 15, 16. *Analepsis Analepse*, pa. 17, 18, &c. *Berith Anti-baal*, pa. 51, 52. When we consider Mr. Crostons constant Loyalty, and confessed vigour, and activity in bringing back the hearts of his Majesties Subjects, and reflect on his present sufferings, We must confess we are not without fear, that the envious Observation of some of his Majesties enemies, may cloud the honour of our most Gracious King, with the Oblivion of *Joash towards Zechariah the Son of Jehoidab*, or the unkindness of *Queen Mary towards Mr. Dobs*, and the Gospellers of

As doth Mr
Tomkins
in his Stric-
tures.

Norfolk and Suffolk, whom she Imprisoned and Pillor'd for only minding her of her promise to them pass'd, for the clearing her passage to the Crown.

The only matter our best enquiry will give us to understand, or our selves can rationally conjecture, as an offence chargeable on Mr. Croston, is, the Affirmation of the Obliging force of the Solemn League and Covenant, and in order thereunto observing and arguing the Legislative power of the two Houses of Parliament without the King; These two we confess are Legible in those writings, which bearing his Name in the World, are reputed his; These Books we have heard were Objected to him (without any specification of any thing or word Offensive or Trayterous,) when he was Committed Prisoner to the Tower; Concerning these Assertions we humbly offer these things to be observed, which we conceive to be worthy a due and serious consideration.

1. First, Mr. Crostons Affirmation, or rather Argumentation of these principles, was, before the same was Interdicted by any Law or Authority, and (if without offence we may observe it,) when it was a duty imposed on all his Majesties good Subjects (required to use their utmost endeavours to promote the ends of the Covenant, and that as an evidence of their Fidelity to God and their King) by his Majesties Royal Declaration, transmitted out of Scotland, and (which we have heard) was delivered to Mr. Croston by a Colonel in his Majesties Army, marching to Worcester, with an expresse charge to believe and pursue it as his Majesties expresse Pleasure: We are sensible the affirmation of these principles is now forbidden by a Law, and is punishable by a Premunire in such who shall affirm them, or either of them after the 24th of June, 1661. But in Mr. Crostons Case we cannot but observe, his Act was in August, September and October, many moneths before the Law which doth forbid it; What is a Premunire, by the Laws we conceive could be no Treason before the Law was made; Where there is no Law there is no Transgression; it is an advise worthy a King so just, and wise, as was King James his Majesties Grand-Father, and to be ever Remembered by all Princes and Ministers of Justice; Proceed judicially and spare none where you see cause to punish;

But

But let your proceedings be according to Law, and remember Laws have their eyes in their fore-head, not in their neck, for the moral reason for the punishment of vices in all Kingdomes and Common-Wealths, is, because of the breach of the Laws standing in force, for none can be punished for the breach of Lawes by Predestination, before they were made : That Mr. Croston was committed to Prison for this Cause, might hereputed an Act of Prudence ; but that he is not enlarged, now that his Spirit and Principles are under the Restriction of a Law, seemeth to us something hard and unpolitique ; the rather for that a Royal command is fairly pretended to have engaged him in this contest, and that he did it before the being of that Law, according to which Justice must acquit him if he had been a Transgressor thereof, more then the time thereby directed for prosecution having passed between his Act and Commitment, and more then twice as much since he was confined, and yet no legal process hath past against him.

Speech in
Parliament,
1621. the 19
of his Reign.

2. Mr. Croston hath as a Divine Disputant and Casuist, affirmed these Principles as Weighty and Important, but doubtful and undetermined by any good and Just Authority ; He therefore having used the freedom and confidence of a disputant in his discourse, doth conclude his Argumentation with this profession ; Might my poor weak papers provoke more serious Casuists, (in good earnest as before God, and in the dread clusion of of an Oath,) to state and by right Religious Reason, resolve this his fetters. case of conscience (though in the negative) I had obtained my desire, and (if I know mine own heart) none shall be more ready then my self to fall down and worship, and confess God is in you of a truth.

We have not known that in any well-governed Common-Wealths, nor can our reason conceive that Logical Dispute and Casuistical Debate (of things weighty, doubtful and not prohibited) was, or could be Judged any crime, much less a crimen lese Majestatis ; We hope we may without offence observe, that the earnest opponents of the divorce of King Henry the 8th, and the Title of Renowned Queen Elizabeth to the Crown of England, or any of them were not for the same Apprehended or Imprisoned as Offenders, untill after that the Law, (the mature and deliberate debates by both

both Universities, all the Casuists in Christendom and the Estates of Parliament, having first cleared and concluded the question disputed,) had duly interdicted the further debates concerning those matters; The Obligation of an Oath, (in which God is immediately concerned,) we think we may say with confidence) is not inferiour to the most weighty of these cases; and no man can or will deny Disputation is directed by God and nature, and used and allowed by all Men and Nations (the Barbarous *Turk*, and in cases of Religion only excepted,) as the only ready and rational means to discover truth, and disperse such clouds as darken the same; Confutations of *fury and false witness* are registred Comments on the ignorance and impietie of *Stephens* Antagonists; and of *fire and force* is the high dishonour of *Queen Maries* Reign, the same better beseeming the wilful, malicious, obdurate Jew, and blind, bloody Papist, then the Rational Religious Christian, and reforming Protestant: whose onely Honourable warfare, hath been ever managed (unto good success) by Argumentation, enforced by Prayers, and Tears as their onely Weapons.

3. Mr. *Crofton* did not first begin and set on foot this Dispute: This controversie was provoked by the Reverend Bishop of Excester Dr. *John Gauden*; his *Analysis* sounded the Alarm, and challenged all men (who feared an Oath, sacred in its nature, and the onely security of humane Order and Societie) especially Ministers (the Guardians of truth, and guides to dutie) to appear unto the defence of the (since condemned) Covenant; Mr. *Crofton* indeed (forward in zeal, and having improved this Oath to the advantage of his Majesties happy return) did first step forth, and with all sobriety receive, and repell the Bishops first assault; the which the Dr. enforcing a second and third time, he resisted with more Logical and Theological strength, taking the Principles from *Grotius* the *Civilian*; the learned *Sanderfon* now Bishop of *Lincoln* the Casuist, and Sir *Thomas Smith*, *Horn* and *Fortescue* the Lawyers, best acquainted with the constitution of the Government of this Kingdom; the which he useth as his *Medium*, by which to conclude his Argument: So that it is visible to all men that

Mr.

Mr. Crofton is *defensive* in this whole debate ; and is no further criminal, then in suffering his Reason to infer, and relate the conclusion, which the principles approved by all men, and asserted by approved Authors do enforce : Civilians do conclude *defensive*, to be the most (if not only) *lawful War* : Our Law and Reason doth conclude in all Quarrels, the offence is in him *who gave the first blow*, and began the Fray, no man was ever found guilty of Murther, or Treason, for killing a man *se defendendo* ; the heat of the Chase, and chance of Hunting, acquitted Sr. William Tyrrel from the guilt of Treason or Murther, though he slew King William the second ; and men of Ingenuity will acknowledge it to be a most fair, candid and clear conquest, which is obtained by the Sword of Goliath, the enemies own weapons ; whilest premises stand approved, other men will not want Mr. Croftons reason to infer the conclusion, nor can they think this common Act could be in him a *Capital crime* : We cannot but acknowledge the Wisdom and justice of our late Martyred Lord, King Charles the first, who determining to silence the *Arminian Controversie* (which then disturbed the peace of the Church) did first by his Royal Proclamation call in the Book *Appello Cesarem* published by Dr. Montagne Bishop of Chichester, as that which was the first cause, and gave occasion to those Disputes and Differences which troubled the quiet of the Church : We dare be bold to avouch it, that if Dr. Gauden had not appeared against, Mr. Crofton had not (in this way) appeared for the (now condemned consumed) League and Covenant, and we hope we shall not have cause to think the Bishops *Analysis* was let loose, to Ducquoy the sober, serious, conscientious, and sincerely Loyal Covenanter, into a snare of Destruction, by a Disputation of a matter so weighty, and undetermined.

4. Although Mr. Crofton may in this Dispute have strained towards one extreame, and seemeth to have attributed more to Parliaments, then what doth appertain unto them, (which is the ordinarie *infortunium* of a Dispute) yet he hath not in these wrightings uttered any expressions of *Dissolyalty*, or *disrespect* to the Kings Majesty, or of *advise* and *provocation*, unto tumult and disorder in the people, whereby his Majesties Person, Crown or Dignity, could be endangered,

ed, or the Peace of the Kingdoms be disturbed: But on the contrary, they contain (in the general scope of these writings, besides many particular expressions thereunto conducing) the greatest evidence, and security of Loyalty to the King, and peace unto his people that can possibly be given; as an evidence hereof we pray it may be observed.

1. Mr. Creston is so far from abetting, approving, or defending the Rebellion against and usage of his late Majesty, that he doth expressly disown, and damn the resistance of his Authority, and violence upon his Royal Person, as a most horrid and execrable Rebellion, a most base and Barbarous

See his *Analepsis*, p. 8.
15, 16. *Analepsis*, *Analepthe*. p. 105.
Berith Anti-Baal, page 52, 53.

Regicide, a most odious and perjurious breach of the Covenant: Which he vindicateth from the odium thereof, and affirmeth to have been so far from being the cause or accessorie occasion thereof, that it is in it self the most full security and strength unto the contrary, that ever was or could be given: and observeth the same to have been slighted, as an Almanack put of date, before that violence could be acted, or advised, which he determineth to have been a full and formal violation of this Oath by the perjured pack who did pursue and effect the same.

2. This man is so far from detracting from the Kings Sovereign Power and Prerogative: that in these very writings he acknowledgeth the Kings Supremacy, in every particular, and in the greatest latitude thereof, ever challenged by any English Prince, and he doth therefore urge the Covenant as consistent with, and enforcing to the Oaths of Allegiance and Supremacy: He affirmeth the Subjects Duty and Allegiance to be absolute, and due without any condition of their own prescription, or indenture; and without any respect to the quality or disposition of the King, good or bad, pious or impious: founded in and directed by simple, naked relation: And he asserteth the Kings Prerogative and Sovereign power to be such, as doth exempt his Royal Person, from all imposition of conditions, and from all coercion to accomplishment (of what he condescendeth to assume upon himself) by his Subjects, or any humane Power whatsoever; and therefore this very man doth blame the Scots for indiscretion, and over much boldness, who being Subjects could dare to take

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Analepsis, *Analepthe*. p. 98 99. 103.
142. 144.

the advantage of a strait condition, to put such terms (as they did) upon his Majesty.

3. Mr. Croston is in these writings so far from a *Seditious Spirit*, and provoking any preposterous, heady, and seditious attempts, and endeavours, that he bindeth all men in the performance of the Covenant unto just and lawful endeavours, and that within their places and callings, and therefore he alloweth no weapons against Majesty, save Ministerial Rebukes and Admonitions in the Name of God the King of Kings; Parliamentary advice, proposal & Remonstrance, in the name of his Subjects, or the Collective Body of his Kingdom; and vulgar Petitions and supplications from and by themselves, in reference to their vulgar concernsments: He disowneth and disalloweth all popular Tumults, and disorderall Insurrections, and insolencies in the Subject; binding unto passive obedience, and quiet submission, all who cannot yield active obedience to the establishments decreed by the King, in Church and Common-wealth; whensoever he doth (as he durst do no other) observe the Wisdom, Justice and Sovereign Power of Almighty God, in permitting, or disposing, the Irruptions and Insurrections of the natural, against, and upon the political Power, or the heady, disorderly, Tumultuous, and Seditious Agitations of the people against their Princes, he passeth not his Observations, without a Notation of the sinfulness thereof; and a manifest expression of his own dislike of such wayes, and courses: If this man must be branded as a Preacher of Sedition, we must confess our selves at a loss, how Truth shall be declared with due respect unto, and careful preservation of Order.

5. The Affirmation of these Principles, and the Disputation in these Books managed, do very rationally profess Loyalty, to be the Center (at least a chief part thereof) from which they sprang, and to which they are returned: Mr. Croston argueth Loyalty as the impulsive cause thereof, and pleadeth it from such evidences which no sober Christian can, or will deny: We shall not conclude Declarations published under the distress of Royal Affairs, do exactly oblige the Kings accomplishment; yet cannot but conceive them to be the Subjects Appologie, and justification for his

Analeps. pa.
35. Analeps.
Analep pag.
36. 66, 67.
68, 69, 100

Analeps.
Analep be
pag. 10, 11.

pursuit of the Royal Command thereby signified, and not any other way countermanded : We cannot but observe the chief of Mr. Croftons Books (objected against him as his onely Crime) were written before His Majesties Declaration concerning Ecclesiastical Affairs was published: This man owneth no sense of the Covenant, but what is truly Loyal, and fully securing to the Kings Interest and Prerogative: It is very well known he had in Press, and Pulpit, improved this very Principle of the Covenant, to bring back the hearts of the people, to the happy Restauration of His Sacred Majesty; and then he found Acceptance, Approbation, and Applause, from those very persons who now reproach him, and rage against him for no reason, save reasoning the same Principles : We confesse, we stand amazed, and cannot conceive with what colour of Justice, that which was an eminent Act of Loyalty, April, 1660. could be reputed, represented, and charged to be an Act of High Treason in September following; no new Law intervening to interdict and so alter the nature of the Act, yet we know *tempora mutantur, & nos mutamur ab illis*; onely we conceive a temporizing weather-cock humour must direct, or the dictates of new made Laws must drive men into the change of Act, and estate : Mr. Crofton doth often protest Loyalty to be his end in this debate (which now seemeth to be his error) and we have cause to believe it did really affect his heart, whence we finde no disloyal Act, or expression to have sprung; and this most Loyal profession, doth not a little demonstrate the sincerity thereof. I confesse we allowe unto his most Sacred Majesty all humble submission, active or passive, whatsoever shall be by Royal Authority established in the Church (though never so corrupt yet) whilst consistent with Salvation; it may occasion unto me suffering, and a suspence of my Ministry, but it shall not effect in me; or suchon whom I have Influence, Schism from the Church, or resistance of His Majesties Right and Authoritie: and in the further, and more fervent enforcement of this debate, this man declareth, He had rather never put pen to paper, then that his writings should disturb the Peace of these two long distracted Nations.

Analeps.
pag. 35.

Analeps.
pag. p. 2.

Mr. Crofton may (we confesse) have taken into his judgment, some of those errors in politie, which the unhappy breach

breach between his late Majesty and the late long Parliament did foment ; yet we humbly conceive malice it self cannot charge these writings (written with so legible a line of Loyalty, and love to peace and order) with *Treason or Sedition* : Certainly this breath is too sweet to come from ulcered lungs ; These Principles and Professions could never proceed from a *Trayterous Heart* ; and all Just men will acknowledge *Alius non facit reum nisi mens sit rea* : nor can they be charitably suspected of dissimulation, when things antecedent Concomitant and consequent, speak the sincerity of a Loyal breast, or when it is observed that these writings exactly square with that constant Loyalty he retained & expressed in the worst of times, (from the first moment of his Majesties Reign, and never stained with the least of action, affirmation, or compliance when almost all men made defection : Yea this man is so well known to us, that we dare affirm and will be bound to produce good demonstration thereof (whenever he be brought out of his present bonds) he retaineth to this very moment the same *Loyal Spirit and Resolution*, although the wisest of Kings hath in his experiences made this observation, *oppression will make a wise man mad*.

We have read all those writings which bear Mr. Croftons Name, with as strict and accurate Observation, as we are capable of, and we grant, that in some of them, we sometimes meet with a *Political Argumentation*, which we could not but judge somewhat *excentrical*, and out of his sphere as a *Divine* ; did we not consider all Arts and Sciences are hand-maids to Divinity ; and not only useful, but necessary unto a *Casuis*t, who must weigh circumstances before he can give a right, clear and convincing Judgement to satisfy the Conscience ; and we find this man to urge the same Casuistically, and in answer to the Objection of those, against whom he doth dispute ; we hope it is not more out of Mr. Croftons way to *Answer*, then out of his Antagonists way to *Argue* from Principles in Politiques, or the political constitution of the Kingdom : If his fault be that he stepped out of his place, we only pray it may be observed, he was drawn out by the pursuit of his Adversary, and martial Law will allow the man to pursue beyond his bounds, (provided he retreat in time) who may be justly punished,

if he leave his place to assault the enemy, and yet, The matter of Mr. Croftons Political Arguments hath been proposed to the Consideration of the Learned in the Law, and they see not any Crime or Capital Offence to be in them, any of them, or all of them put together; much less can they charge it to be *Treason*, the which the prohibition doth only punish with a *Premunire* since the 24th of June, 1661.

Our ears have been alarumd with the loud clamours of Mr. Croftons *Treason*, every scurrilous Pamphleter can better *Proclaim*, then *prove* him a Traytor; Every simple Calculator of the Almanack Observations, can more easily calender his commitment for *Highb Treason*, then give the least convincing evidence of his guilt; We have bestowed our mony upon these Pamplers, which insult over him in this day of his Affliction, and confess we find in them big words, (*preterea nihil*,) venting themselves with the highest malice and greatest rage (the event as yet excepted,) that ever was expressed (against a man so innocent,) since the stoning of Stephen: Infomuch that we cannot but suspect it to spring from the same root, and to be an effect of the same Cause, the rather because when we would know the particular matter of his *Treason*, we find his violent accusers are not agreed among themselves: all indeed place it in words, for which the learned say there is no warrant, (unless in some special opinions relating to the Pope, determined by some special statutes,) but they are divided as to words.

Some tell us his *Treason* is for saying, the Parliament had a Legislation without the King, but this is only punishable by a *Premunire* since the Law was made, which maketh it criminal: *Strange* fixeth his *Treason* in these words, *The Lords and Commons were a lawful Authority*, yet we find no Law which hath determined a crime in this position, much less a *Treason*; we find Mr. Croftons Assertion thereof to be very cautious, and so well grounded that we can scarcely yet believe the same will be judged an error by any sober, serious *English-man*: being verified by the dayly practice and usage of Parliament: for our parts we must confess we dare not deny the Solemn League and Covenant to have been turned by a *lawful Authority*,

thority, and yet we do not know any Act of Parliament
 with a full, formall assent of the Kings Majesty which did
 direct the same: And we fear, if we should yet presume to
 disobey any Resolve, Vote or Order of one or both Hou-
 ses of Parliament, or condemne and resist the execution
 thereof by any other; this plea such *Vote or Order* was de-
 fective as to lawful Authority, (not coming in the forme
 of an Act of Parliament, and a full Law with a *Le Roy Le*
ve ult would not acquit us from the contempt of the Au-
 thority of Parliament: And yet we cannot but observe
 Mr. Croftons Assertions concerning the Authority of Parlia-
 ment, to be no more then this, that it was lawful and suffi-
 cient, not full and compleat, without the expresse Royal Assent, and
 that also under these two expresse qualifications, a Parlia-
 ment rightly constituted, and during their Session: he never Judg-
 ed any self-constituted assembly, or convention pack'd by
 a usurping Tyrant, to be a Parliament, nor any Vote, Re-
 solve, or order of Parliament to have in it any thing of the
 nature of Law, or Authority, (save to defend what was exe-
 cuted by virtue thereof the Parliament sitting,) when the
 Parliament is Dissolved: his words are these, *A Parli-*
ment duly Summoned, regularly elected and returned, rightly
constituted and readily embraced by King and Kingdoms can any
true Englishman in any measure acquainted with the constitution
of this Kingdome, or the Authority of the High Court of Parliament
deny these to be a Just and Lawful Authority, to resolve, order,
and enjoyn, yea and to execute their resolves, orders and injuncti-
ons during the being of their Power, though not to establish Laws to
be executed when they are dissolved and gone: And in every of
his Books we find him often deny the two Houses to be full
and compleat, though he affirm them a lawful and sufficient Au-
thority: Sure Mr. Lestrange will not deny Lawful Autho-
rity to be a Subject capable of major and minor, and such as
may admit of degrees; if Mr. Crofton be in this point in an
error let any man by good demonstration correct him, we
will undertake he shall not by obstinacy appear an Hereti-
que in Politiques, but if his confutation must be only rage
and violence, we desire Mr. Lestrange will let us know what
English Law, which hath determined Treason for any man
to think, say, or write the Lords and Commons assembled in
Parliament

Analept.
Analeptb.
 Pag. 113.

Analept.
Analeptb.
 Pag. 116.

Parliament are a Lawful Authority, and then we may be convinced Mr. Croston suffereth as an evil doer, but till then we must let him know railing is no reason, not doth it become a man.

Mr. Tomkins who at length appeareth to rescue the Oxford Reasons from the force of Mr. Crostons Arguments; doth leave the Learned Authors thereof under their observed defects in Logick, History, Politiques, and Divinity, and as one whose pinched reason breaketh into passion, (in heat of anger) provoketh a more severe and bloody moderation then his Antagonist hath yet met with, crying out, Mr. Crostons saying that the Parliament ever retained a Jurisdiction over Church and Crown in short is High Treason.

How much the Universitie of Oxford are engaged to this their Valiant, Learned Defendant, we leave themselves to Judge: how much he hath bettered the cause under contest let sober men Judge: with what ingenuity, candor and clearness he hath taken up and confuted Mr. Crostons Arguments, let any Sophomore, yea Fresh-man or ordinary Logician Judge: and how fair an Adversary he is, that alarumeth the hand of Justice against his Antagonist, let Just and Wise men Judge: we are not now to Animadvert his animadversions, but to Apologize for our oppressed, defamed Friend, who cannot do it for himself: and herein

We would give this confident Gentleman hearty thanks to clear his charge of High Treason, for we would not plead for it if we knew it, or could perceive it; But we yet thinke this is but one Doctors opinion, more visible to a Fellow of All-Soules in Oxford, then a Barrister or Benchet in the Temple, near London. This Fellow professeth himself a Reader of Cookes Institutes, and that Learned Lawyer telleth us there is no Treason but what is determined by the Statute of the 25th of Edward the 3d, and we find not this assertion forbidden therein, nor any Opinion determined, and Declared by that Statute to be Treason: This learned Lawyer concludeth that Treason must be *Factum* not *Ditum*, words may make an Heritique but not a Traytor, we must confess Oxford Disputants have Determined Heresie in their Opponents,

nents, he is the first of that learned University, who hath presumed to declare *Treason*.

We are sure these words make no immediate, and direct assault upon his Majesties Person, Crown, or Dignity; and the Lord Cook abandons all Glosses, Inferences, Interpretations, and consequences to be made by Judge or Counsel, in Cases of *Treason*.

Judge *Jenkins* guides the Judgement of *Treason* by the very Letter of the Law, for that in *Criminibus a verbo Legis non est recedendum*: And we cannot conceive how an Observation of past Acts, can be *Treason* in the Logical, or Historical Observer: Mr. *Crofton* noteth the Parliament retained in times past; He doth note the Fact without any determination of the *jus* and right of such retention; we would advise this Fellow to repair to *All Souls*, and reflect on his own Thoughts; and resolve us, that the *Treason* is not more in his own fancie and imagination, then in Mr. *Crofton* his expressions; we find he doth throughout his Book mistake the *Person*, which maketh us suspicious he misunderstandeth the *position*: on this man he reflecteth the odium of the violence of the *Visitors in Oxford* whom Mr. *Crofton* knew not, and it is disputable, whether he was then in *England*: The defection and compliances under *Queen Richard* and other *Usurpers*, which Mr. *Crofton* ever denyed, resisted, and detested, when some who then were, and now are most zealous compliers urged him, with this convincing argument these times affords few *Martyrs*: and the purchase of Church Lands whilest Mr. *Crofton* would not take when he might, a living out of which he knew any man to have been Sequestered: He whose heat of Passion doth engage him to misread the *Person*, may well misinterpret his words, as indeed we observe he doth, understanding *King* by *Crown*, and *Sovereign coercive, destructive power* by *jurisdiction*: it is no hard matter to make a Traytor, if envy may interpret a mans words; we hope Mr. *Tomkins* will not take it unkindly; if he be excepted against, as to his being Judge, or Jury which shall passe upon Mr. *Crofton*.

That we may not run into the error we rebuke in any other, we shall not presume to give our apprehension of the loyal sence of these words, so positively charged to be *High*
Treason,

Treason; but shall make bold to present you with Mr. Croftons own exposition of them declared in a Letter written to some Friends, who desired to understand his sence and meaning therein: All men will allow him *Waterford Law* as the best and onely expofitor of his own words, subject to misconstruction.

These words [*the Parliament ever retained in themselves a Jurisdiction over Church and Crown*] are so far from Treason; that they will not be found an error in politiques; if that rule be true which cannot be denied, *generalia generaliter sunt intelligenda*: I fear you mistake the sence of every word in this short Sentence, and that you conceive *Crown* doth signifie the *Kings*, as if these two were not seperable; and so known to be in our Laws: And *Jurisdiction* doth signifie *coaction*, as if *Corona jus dicere* did necessarily signifie *Coronatum cogere per asperit*; the which is a Sence inconsistent with, and contrary unto the *Kings immunity from all humane coaction*, which I have exprelly asserted in this very Treatise; You here understand *Parliament*, to signifie the *Lords and Commons abstracted from the King*; which sence this place and case doth not necessitate, though I do sometimes so use that term: For *Parliament* here is opposed to *Pope*, and is noted to be the Subject of full and compleat *Legislation* (which I never do attribute unto, but do alwayes deny, the two houses) unto the extending the prerogative of the *Crown* by the statute 1. Elizabeth: or restraint thereof by the statute 17. Carol. in both which the *King* was a part of the *Parliament*: Learned men should expound the Text by the context; and in Reading a Treatise make one part expound another, and know, no Author is to be judged by the sound, much less by the seeming consequence of a single sentence: And now Mr. Tomkins where is Mr. Croftons *Highb Treason*? And yet we will not fear to let you know that admitting your sence of the term *Parliament*, abstracted from the *King* there is nothing clearer in the political Constitution, and Administration of our Kingdom, then their retained jurisdiction over the *Crown*; We do not, nor did Mr. Crofton say over the *King*, the Subject of the *Crown*; we will not run you for proof hereof into the Histories of Forreign Countries, or our own Saxon times,

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times, in which we finde this Jurisdiction larger then Mr. Crofton doth assert it; but nearer home and hand be pleased to consider,

1. King John yielded by consent of the Barrons (saith the Record) the Crown of England unto the Pope of Rome to hold it from, and under him; who often demanded the Surrender of it, but was answered the Parliament must give it; In Anno. 40. of King Edward the third, upon the Popes demand of the Crown of this Realm, the King appeared to his Parliament, who judicially determined it was not in the power of King John, nor any other King of England to dispose the Crown; but in the sole power of Parliament.

2. The claim to the Crown made by Richard Duke of York, against King Henry the sixth, having reigned twenty eight Years, was by both parties, submitted by appeal, unto the Judgement of Parliament; who determined for the Duke; yet continued the Crown to the King, during his life, on condition of good behaviour towards the Duke, and in either case the Duke or his heir to possess it.

3. The several Successors in the strife between York and Lancaster, submitted the success of their Sword, to the censure of Parliament, as their onely security to the Crown; the Acts of one Parliament binding until discharged by another, hence it is that the Statutes of that Age recorded in Speeds Chronicle do teach us this Doctrine: the Court of Parliament is of such Authority, and the people of this Land of such nature and disposition, (as experience teacheth) that the Declaration or Manifestation of any Truth or Right by the three Estates (Lords Spiritual and Temporal and Commons saith the Statute) assembled in Parliament, and by authority thereof, maketh before all things most Faith, and certain quiescing to mens minds, and removing all doubts.

The Parliament did bastardize and Legitimise the Children of King Henry the eighth, and they by their Authority enabled him to dispose the Crown to, or from his Children, with and under what conditions he pleased, adjudging any his Children assuming the Crown, otherwise then by this Authority, to lose their Rights, and be judged Traitors to the Realm, whence it came to pass that Edward the sixth, Queen Mary, and Elizabeth did hold and enjoy the

D Crown,

Crown, by *Authority of Parliament*, and the Title of the last being questioned, produced the Statute 13. *Elizabeth*, which made it *Treason* during the Queens life, and loss of goods after her Death, for any man to deny the *Authority of Parliament to direct, dispose, limit, or restrain the Crown*.

5. *Statutes of Recognition* have ever been reputed the onely riveting security to the Crown; and certainly these signifie more then a State Complement, and although they pass in the same Royal Formality, with other Laws, which concern the Subject; yet it must be confessed they receive strength by an Authority in this respect abstracted from the King, as do the Statutes providing monies the only support of the Crown.

6. If we should ask Mr. *Tomkins* who in the defect of Heirs hath *Jurisdiction over the Crown*, would he not dare for fear of *Treason* to say the *Parliament*, Bishop *Bisson* saith it in expresse terms; and that not onely for our own Kingdom, but all others also.

7. Before Mr. *Crofton* be condemned as a Traytor for saying the *Parliament* ever retained in themselves a jurisdiction over the Crown, we hope the conclusion of our late Martyred Sovereign King *Charles the first* (who well knew the constitution of this Kingdom, and the extent of Royal Prerogative) will be denyed, for he affirmed the *Power* legally placed in both Houses is more then sufficient to prevent and restrain Tyranny, which must needs import a large *Jurisdiction over the Crown*.

8. When we consider the Courts of *Judicature*, in *Westminster Hall*, do conclude judicially against his Majesty, in many Suits brought by him in *Right of the Crown*, against the Subject; and by the Subject against him: We cannot imagine it *Treason* to say the happy constitution of *Englands Government* is such that the Courts of *Justice* have a *Jurisdiction over the Crown*, much less to say the High Court of *Parliament* hath it.

If an Observation of *Fact*, without any assertion of *Right*. If the Sound of a Sentence capable of a most *Loyal Sense*. If a *Possession* proved by constant *Practice* be *Treason*, we must leave Mr. *Tomkins* on the Bench, and Mr. *Crofton* at the Bar to receive

His Answer
to the 19.
Propositions.

receive his doom, but cannot deny our assent unto the Observation of the Statute, 1. *Maria*, discharging the Laws which made words Treason : *Those Laws are grievous which are so made, that not only the Rude, Ignorant and Unlearned, but also the learned and expert people minding honesty are often and many times trapped for words only, without other fact, or deed.*

We have with the most exact diligence we are capable of, Enquired and observed the reports of men, that we might be satisfied what is the great matter which causeth this man to be kept in so severe a durance, and some tell us he was ever Turbulent, and not quiet under any power : unto which we answer,

We presume his Turbulency, under our late Usurpers (being the *Act* of his Loyalty to his King, restlessly endeavouring his happy Restauration) is not now supposed his crime, or any aggravation thereof ; The men who do now condemn him, did account it is duty, and honour when others were sinfully quiet, and we see not any difference between this in him, and *Jeboiadab* endeavours against *Ahabiah*, and for King *Joash*, save the one enjoyed the Comfort, Peace and Liberty of the effect, whereof the other was and is deprived : His Turbulency hath ever had sin for its Object, Ministerial rebuke preaching or writing for its only *Act* and Expression ; Which of the Prophets or Apostles were not ? What Faithful Minister of the Gospel is not ? can or dare be otherwise then thus Turbulent ? This is not only Lawful, within his place and calling ; But the Indispensable duty thereof : *Elijahs* must thus trouble *Israel*, and *Amos* Alarm the Kings Court, cost what it will or can : If he have ever appeared in, advised, or abetted, any Seditious Tumult, Rebellions Insurrection, or Trayterous Conspiracy, we leave him to himself : But *Tertullus* himself is not able herein to charge him, and other *Acts* of Turbulency, will subject them to trouble from the Lord, who do therefore trouble him, as a thing most righteous.

Some clamour against our Friend as Seditious, and Treasonable because against *Episcopacy*, and relying on that maxim, *no Bishop no King* : Conclude he cannot be a Friend

to the King, who is an enemy to the Bishops, to which we answer.

Such as know him, and have read his Writings, will find it is shame is not true, for he professeth for Episcopal Degree which is much as our sober Reformers ever challenged, or our Learned *Usher* approved; He is indeed against *Papal Hierarchy*, and that Episcopacy which was the step and seemeth the support of the man of sin, but suppose the utmost, his Opposition is purely Argumentative, and is but ill resisted with Rage and Violence.

No Bishop no King may be a maxim of State, but we have not known it to be a Principle in our Law, we have not heard of any Statute which hath so conjoynd the Mitre to the Crown, as that a dis-respect to that, must needs be reputed, and punished as a Treason against this; We hope we shall not offend if we say that is a sad Government which pretendeth to Divine Right, and yet hath no uphold or guard but Violence and Oppression of Reason, urged against it, and cannot silence a Disputing Antagonist, otherwise then by a close Prison.

We have heard a third cry, Mr. *Croston* Preached against the Bishops, and provoked the opposition of them by fire and blood; to this we answer,

We heard the last Sermons this man did Preach, and can give the true account thereof, wherein we desire it may be noted,

1. He went not out of his way to fly in the faces of the Bishops; He had purposed a full exposition of the first Epistle of *Peter* in his Lectures at *Antholins* London, in pursuit whereof, he proceeded so far as to the last words of the second Chapter; And observed the Lord *Jesus* was the Shepherd and Bishop of our Souls: In the Explication of this Position, he enquired how? and by whom the Lord *Jesus* Christ did Execute this his Pastoral charge, and Episcopal Office, in and towards his Church? And Resolved and Asserted, the Lord doth execute this Pastoral charge and Episcopal Office by his Ministers, all, equally Authorized, and without any such Order or standing function of an *Episcopus Episcoporum*; The which having demonstrated by considerable evidence, and answered

swers to Objections, he did press on his people, as a truth considerable to be understood, as relating to Christs Resurrection, as King of his Church, and closed with this Observation in these express Terms, *There seemeth unto me an Emphasis in those words, Rev. 11. 7. Relating to the two Witnesses, when they shall have finished their Testimony: These words seem to relate no less to the matter, then the time of these witnesses Prophecy, (viz.) That they must bear witness to the last punctilio of Christs Pastoral charge, and Episcopal Office, before they were slain: we all know this Shepherd and Bishop of our Souls; so work out our Salvation by his threefold Office of Prophet, Priest and King: And I cannot but observe each of those (besides the general assault and oppression of the whole) hath had a particular and special conflict in the World, and hath constrained an open and Publick Testimony, from Christs Church in the fire and with their blood:*

In the first Age of Christianity the great and special Question was concerning Christs Prophetical Office, whether the Scriptures; or the Oracles of Apollo, Traditions of the Jewes, and Delusions of Impostors and Heretiques should be received obeyed? and we well know in what fiery Tryals and with what fearful sufferings the Sheep of Christ did bear his voyce, decline Strangers, and witness against them: this Office was no sooner rescued from violence; and established in the World by the blood of the Primitive Martyrs; but Christs Prickly Office was by the working of the man of sin denied and darkened, the great controversie in the Catholick Church concerned the one Mediator, and High Priest, the one Sacrifice once onely offered; or others made coequal with him, if not preferred before him, and how long and bloody conflicts were undergone in the same the Histories of our Progenitors and Smithfield Flames do plainly shew: this Office was scarcely rescued from violence before Christs Kingly Office cometh on the Stage, and calleth for the Testimony of the Saints that the Government is on his shoulders administered by his own Officers, and Ordinances; and this must be attested in the greatest Tribulation; saddest Sufferings in fire and blood that can befall us.

*In this whole Discourse Mr. Cresson mentioned not fire and blood, in any sence but passive, as doth the Apocalliptic, *Ye have not resisted unto blood, Heb. 11. 4. and disowned all actions unto fire and blood, which at any time were or should be attempted on the pretence of Christs Kingly Office,**

Office, declaring his detestation of that Mad, Treasonable Rebellion of *Fenner* and his Fellow real Phanatiques, which had lately passed to the scandal of the true Religion: these things our ears heard, and therefore do we testify the same, yea and some of us wrote the same from his mouth (in characters) as they were by him spoken. Had Pagan or Popish Priests heard this Doctrine, and cryed out *Treason* or *Heresie*, it had not been strange; but the out-cry of Christian, and Protestant Bishops doth make us admire, and stand amazed.

These things considered, we humbly offer it to the consideration of *Just and Prudent men* sincerely affected to his Majesties Government, whether Mr. *Crofton* (what ever hath been suggested or clamored against him) hath done any thing worthy of death, or of bonds? and whether his enlargement, and restitution will not much more conduce unto the honour of his Majesties Government, then the continuance of him in bonds, to the undoing of himself, wife, and seven small children, by the expence of his poor Estate already wasted; and the real prejudice of his health, and ruine of many souls which might be saved by his Ministry? the liberty of the Subject being fully secured by many Ancient and later Laws.

F I N I S.
